

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed March 17, 2009. At the time of the Office Action, Claims 37 and 40 were pending in this Application. Claims 37 and 40 were rejected. Applicant amends Claims 37 and 40. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claims 37 and 40 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant amends Claims 37 and 40 to clarify that the first and second failure strengths at issue are of the first and second connectors, respectively. Applicant makes these amendments for antecedent basis reasons with the understanding that these claims still correspond substantially to claims of U.S. Patent No. 5,988,598 which with an interference has been requested. Applicant respectfully requests withdrawal of these rejections.

Rejections under 35 U.S.C. § 102

Claims 37 and 40 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,183,695 issued to Ernest J. Wilcox ("Wilcox"). Applicant respectfully traverses and submits the cited art does not teach all of the elements of the claimed embodiment of the invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the art cited as anticipatory by the Examiner cannot anticipate the rejected claims, because the cited art does not show all the elements of the claims.

Claims 37 and 40 each recites an upper post member having a weak impact axis and a strong impact axis and a lower post member disposed beneath and spaced apart from said upper post member. The Office Action suggests that legs 24 and 26 of *Wilcox* read on the claimed upper post member and that rectangular base 12 reads on the lower post member. However, base 12 is not a post member because it lies horizontally and not vertically. For example, *The American Heritage College Dictionary* defines a "post" as "1. A long piece of wood or other material set **upright** into the ground to serve as a marker or support. 2. A similar **vertical** support or structure," *The American Heritage College Dictionary* (2000), p. 1067 (attached as Exhibit A) (emphasis added). As another example, *Webster's Third New International Dictionary of the English Language Unabridged* defines "post" as "1 : a piece of timber or other solid substance (as metal) fixed or intended to be fixed firmly in an **upright** position esp. as a stay or support" *Webster's Third New International Dictionary of the English Language Unabridged* (1981), p. 1771 (attached as Exhibit B) (emphasis added). As evident, a post member is a vertical or upright member. Base 12 of *Wilcox* is not a post member – it lies horizontally. See, e.g., *Wilcox*, Figures 1 and 7. *Wilcox* does not disclose, teach, or suggest a lower post member disposed beneath and spaced apart from an upper post member as claimed. Therefore, for at least these reasons, Applicant respectfully submits that these rejections to Claims 37 and 40 be withdrawn and that Applicant's request for interference be granted.

CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. For at least the foregoing reasons, Applicant respectfully requests withdrawal of the rejections and granting of Applicant's request for interference.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 214.953.6511.

Applicant believes there are no fees due at this time; however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
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